IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2003 OF 1997

Anand Kumar Mittal .. Petitioner.
V/s.
The Union of India & Others .. Respondents.

Mr.Mohan Jaykar i/b. M/s.Khaitan & Jaykar for the petitioner.
Mr.A.J. Rana, senior advocate with Mr.A.S. Rao and Mrs.S.V. Bharucha for the respondents.

WRIT PETITION NO.226 OF 1998

Orient Overseas Pvt.Ltd. & Anr. .. Petitioners.
V/s.
The Union of India & Others .. Respondents.

Mr.Mohan Jaykar i/b. M/s.Khaitan & Jaykar for the petitioners.
Mr.A.J. Rana, senior advocate with Mr.A.S. Rao for the respondents.

WRIT PETITION NO.647 OF 1998

Bishan Saroop Ram Kishan
& Sons & Another .. Petitioners.
V/s.
The Union of India & Others .. Respondents.

Mr.Mohan Jaykar i/b. M/s.Khaitan & Jaykar for the petitioners.
Mr.A.J. Rana, senior advocate with Mr.A.S. Rao for the respondents.

WRIT PETITION NO.648 OF 1998

Rajesh Aggarwal .. Petitioner.
V/s.
The Union of India & Others .. Respondents.

Mr.Mohan Jaykar i/b. M/s.Khaitan & Jaykar for the petitioner.
Mr.A.J. Rana, senior advocate with Mr.A.S. Rao for the respondents.

WRIT PETITION NO.649 OF 1998

L.T. Overseas Ltd. & Another .. Petitioners.
V/s.
The Union of India & Others .. Respondents.

Mr.Mohan Jaykar i/b. M/s.Khaitan & Jaykar for the petitioners.
Mr.A.J. Rana, senior advocate with Mr.A.S. Rao and Mrs.Neeta Masurkar for the respondents.

WRIT PETITION NO.1517 OF 1998

M/s.Orient Overseas Pvt.Ltd.
& Another .. Petitioners.
V/s.
The Union of India & Others .. Respondents.

Mr.Mohan Jaykar i/b. M/s.Khaitan & Jaykar for the petitioners.
Mr.A.J. Rana, senior advocate with Mrs.S.V. Bharucha for the respondents.

CORAM : DR.S. RADHAKRISHNAN & J.P. DEVADHAR, JJ.

DATED : 27TH FEBRUARY, 2006.

P.C. :

1. Heard the learned counsel for the petitioners and the learned counsel for the respondents.

2. In all the above petitions, the respective petitioners had imported various quantities of white refined sugar and they were assessed at the time of filing the bill of entry for home consumption wherein the basic customs duty was treated as free-nil. Similarly, the additional duty was treated as free-nil. However, the respondents had levied Rs.14/- per quintal by way of sugar cess under the Sugar Cess Act, 1982.

3. On a perusal of the provisions of Sugar Cess

Act, 1982, it is clear that the said sugar cess can be levied only on the sugar manufactured in India. However, in all the above cases, admittedly the white refined sugar was not manufactured in India, but the same was imported from abroad. The learned counsel for the petitioners Mr.Jaykar also brought to our notice the notification No.11/97-Cus. dated 1st March, 1997 wherein Entry No.10 clearly mentions that with regard to refined sugar including white crystal sugar and raw sugar, there will be no duty as well as no additional duty.

4. In view of the above, the levy of sugar cess at the rate of Rs.14/- per quintal in all the above cases is totally unsustainable in law. In all the above cases, the petitioners contend that the sugar cess have been paid which the respondents are not entitled to collect. Under the aforesaid facts and circumstances of the case, the petitioners in the above cases, if they have paid the aforesaid sugar cess, they are entitled to adopt appropriate proceedings in law for recovery of the same.

5. All the writ petitions stand disposed of in above terms with no order as to costs.

(DR.S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)